

Neel Chatterjee (SBN 173985)  
*nchatterjee@goodwinlaw.com*

James Lin (SBN 310440)  
*jlin@goodwinlaw.com*

**GOODWIN PROCTER LLP**  
135 Commonwealth Drive  
Menlo Park, California 94025  
Tel.: +1 650 752 3100  
Fax.: +1 650 853 1038

Brett Schuman (SBN 189247)  
*bschuman@goodwinlaw.com*

Shane Brun (SBN 179079)  
*sbrun@goodwinlaw.com*

Rachel M. Walsh (SBN 250568)  
*rwalsh@goodwinlaw.com*

Hayes P. Hyde (SBN 308031)  
*hhyde@goodwinlaw.com*

**GOODWIN PROCTER LLP**  
Three Embarcadero Center  
San Francisco, California 94111  
Tel.: +1 415 733 6000  
Fax.: +1 415 677 9041

Hong-An Vu (SBN 266268)  
*hvu@goodwinlaw.com*

**GOODWIN PROCTER LLP**  
601 S. Figueroa Street, 41st Floor  
Los Angeles, California 90017  
Tel.: +1 213 426 2500  
Fax.: +1 213 623 1673

*Attorneys for Defendant: Otto Trucking LLC*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION**

Waymo LLC,

Plaintiff,

v.

Uber Technologies, Inc.; Ottomotto LLC; Otto  
Trucking LLC,

Defendants.

Case No. 3:17-cv-00939-WHA

**OTTO TRUCKING PROPOSED SPECIAL  
VERDICT FORM**

Date: Thursdays  
Time: 8:00 a.m.  
Courtroom: 8  
Judge: Hon. William Alsup

We, the jury in the above-entitled action, find the following Special Verdict on the questions submitted to us.

**I. DIRECT MISAPPROPRIATION OF TRADE SECRETS**

1. Has Waymo proven that, at the time of the alleged misappropriation, the items identified below were neither publicly known nor readily ascertainable through proper means by those with relevant skills or training in this area?

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

*If you answered "No" for all items, please skip to question No. 19. If you answered "Yes" for any item, please answer No. 2 only for any item for which you answered "Yes."*

2. Has Waymo proven that, at the time of the alleged of misappropriation, the item was subject to reasonable efforts on the part of Google (or Waymo) to keep it a secret?

• [REDACTED]

Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]

Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]

Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]

Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]

Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]

Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]

Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]

Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]

Yes \_\_\_\_ No \_\_\_\_

*If you answered "Yes" for any item, please answer No. 3 only for any item for which you answered "Yes." If you don't answer "Yes" for any item, please skip to question No. 13.*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

3. Has Waymo proven that, at the time of the alleged of misappropriation, the item had independent economic value by virtue of being kept secret?

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

• [REDACTED]  
Yes \_\_\_\_ No \_\_\_\_

*If you answered "Yes" for any item, please answer No. 4 only for any item for which you answered "Yes." If you don't answer "Yes" for any item, please skip to question No. 13.*

1  
2 4. For each item(s) for which you answered "Yes" in question No. 3, has Waymo proven that  
3 the item related to a product or service used in, or intended for use in, interstate or foreign  
4 commerce?

5 • [REDACTED]  
6 Yes \_\_\_\_ No \_\_\_\_

7 • [REDACTED]  
8 Yes \_\_\_\_ No \_\_\_\_

9 • [REDACTED]  
10 Yes \_\_\_\_ No \_\_\_\_

11 • [REDACTED]  
12 Yes \_\_\_\_ No \_\_\_\_

13 • [REDACTED]  
14 Yes \_\_\_\_ No \_\_\_\_

15 • [REDACTED]  
16 Yes \_\_\_\_ No \_\_\_\_

17 • [REDACTED]  
18 Yes \_\_\_\_ No \_\_\_\_

19 • [REDACTED]  
20 Yes \_\_\_\_ No \_\_\_\_

21 • [REDACTED]  
22 Yes \_\_\_\_ No \_\_\_\_

23 5. Has Waymo proven that the following defendants, addressed separately, improperly  
24 acquired one or more of the item(s) for which you answered "Yes" in question No. 3? If  
25 you answer "Yes," please identify which item.<sup>1</sup>

26 Uber Technologies, Inc. Yes \_\_\_\_ No \_\_\_\_

27 Item(s): \_\_\_\_\_

28 Ottomotto, LLC Yes \_\_\_\_ No \_\_\_\_

<sup>1</sup> Uber reserves the right to withdraw this and all other proposed jury verdict form questions and jury instructions on acquisition.

Item(s): \_\_\_\_\_

*If you answered "Yes" for any defendant, please answer No. 5 only for the defendant(s) for whom you answered "Yes." If you answered "No" for all defendants, please skip to question No. 13.*

6. Has Waymo proven that it is more likely than not that the following defendants knew or had reason to know that it acquired one or more of the item(s) for which you answered "Yes" in question No. 3 by improper means? If you answer "Yes," please identify which item.

Uber Technologies, Inc.      Yes    \_\_\_\_\_    No    \_\_\_\_\_

Item(s): \_\_\_\_\_

Ottomotto, LLC      Yes    \_\_\_\_\_    No    \_\_\_\_\_

Item(s): \_\_\_\_\_

*If you answered "Yes" for any defendant, please answer No. 7 only for the defendant(s) for which you answered "Yes." If you answered "No" for all defendants, please skip to question No. 13.*

7. Has Waymo proven that it is more likely than not that the defendant improperly used one or more of the item(s) for which you answered "Yes" in question No. 3? If you answer "Yes," please identify which item.

Uber Technologies, Inc.      Yes    \_\_\_\_\_    No    \_\_\_\_\_

Item(s): \_\_\_\_\_

Ottomotto, LLC      Yes    \_\_\_\_\_    No    \_\_\_\_\_

Item(s): \_\_\_\_\_

*If you answered "Yes" for any defendant, please answer No. 8 only for the defendant(s) for whom you answered "Yes." If you answered "No" for all defendants, please skip to question No. 13.*

8. Has Waymo proven that, at the time of use of one or more of the item(s) for which you answered "Yes" in question No. 3, that the defendants had either acquired them by improper means or knew or had reason to know that they came from Anthony

Levandowski and he had acquired them by improper means? If you answer "Yes," please identify which item.

Uber Technologies, Inc. Yes \_\_\_\_ No \_\_\_\_

Item(s): \_\_\_\_\_

Ottomotto, LLC Yes \_\_\_\_ No \_\_\_\_

Item(s): \_\_\_\_\_

*If you answered "Yes" for any defendant, please answer No. 9 only for the defendant(s) for whom you answered "Yes." If you answered "No" for all defendants, please skip to question No. 13.*

9. If you answered "Yes" to Uber and/or Ottomotto in question No. 7, has Waymo proven that Uber, and/or Ottomotto' misappropriation was a substantial factor in causing Uber and/or Ottomotto to be unjustly enriched?

Yes \_\_\_\_ No \_\_\_\_

*If you answered "Yes," please answer No. 10. If you answered "No," please skip No. 10 and 11.*

10. For each item for which you answered "Yes" in question No. 3, what is the amount that Waymo should recover for Uber and/or Ottomotto's unjust enrichment? You must only include any amounts of unjust enrichment that Waymo has proven are more likely than not.

•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
TOTAL		\$ _____

*If you entered an amount for any item, please answer No. 11. If you did not enter an amount for any items, please skip to No. 12.*

11. Do the amounts that you entered in No. 10 include any amount by which Uber and/or Ottomotto will be unjustly enriched in the future?

Yes \_\_\_\_ No \_\_\_\_

12. For each item for which you answered "Yes" in question No. 3, has Waymo proven by clear and convincing evidence that each defendant(s) misappropriation was willful and malicious?

Uber Technologies, Inc.	Yes	_____	No	_____
Ottomotto, LLC	Yes	_____	No	_____

13. Have defendants proven that Waymo brought any of its claims against Uber, Ottomotto and/or Otto Trucking in bad faith, including any of Waymo's claims that Waymo originally alleged but did not take to trial?

Uber Technologies, Inc.	Yes	_____	No	_____
Ottomotto, LLC	Yes	_____	No	_____

## II. INDIRECT MISAPPROPRIATION OF TRADE SECRETS

14. Has Waymo proven that any of the alleged nine trade secrets are trade secrets?

*If you answered "No" for Nos. 14, please skip to question No. 19.*

15. If you answered yes to No. 14, has Waymo proven that Otto Trucking is vicariously liable for the indirect misappropriation of any trade secret Waymo has proven?

Yes \_\_\_\_\_ No \_\_\_\_\_

16. Has Waymo proven that Otto Trucking has ratified the misappropriation of any trade secret Waymo has proven?

Yes \_\_\_\_\_ No \_\_\_\_\_

*If you answered "No" for Nos. 15 or 16, please skip to question No. 19.*

17. If you answered "Yes" to question No. 14 or 15, has Waymo proven that Otto Trucking's indirect misappropriation of any of the alleged nine trade secrets identified by Waymo was a substantial factor in causing Otto Trucking to be unjustly enriched?

Yes \_\_\_\_\_ No \_\_\_\_\_

18. If you answered yes to No. 17, what is the amount that Waymo should recover for Otto Trucking's unjust enrichment for each alleged trade secret you have found was indirectly misappropriated? You must only include any amounts of unjust enrichment that Waymo has proven are more likely than not.

•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____
•	_____	\$ _____



• [REDACTED] \$ \_\_\_\_\_  
• [REDACTED] \$ \_\_\_\_\_  
TOTAL \$ \_\_\_\_\_

### III. DEFENDANTS' AFFIRMATIVE DEFENSES

19. Have defendants proven that Waymo brought any of its claims against Uber, Ottomotto and/or Otto Trucking in bad faith, including any of Waymo's claims that Waymo originally alleged but did not take to trial?

Uber Technologies, Inc.	Yes	_____	No	_____
Ottomotto, LLC	Yes	_____	No	_____
Otto Trucking, LLC	Yes	_____	No	_____

#### A. Unclean Hands

20. Is it more likely than not that Waymo violated a duty of good faith or acted unconscionably in connection with the events for which Waymo seeks to recover?

Yes \_\_\_\_\_ No \_\_\_\_\_

*If you answered "Yes," please answer No. 20. If you answered "No," please go to No. 21.*

21. By what amount should Waymo's recovery be reduced because of Waymo's unclean hands?

\$ \_\_\_\_\_

#### B. Mitigation of Damages

22. Is it more likely than not that Waymo could have avoided any of its damages with reasonable efforts or expenditures?

Yes \_\_\_\_\_ No \_\_\_\_\_

*If you answered "Yes," please answer No. 21. If you answered "No," please go to No. 22.*

23. What amount of damages could Waymo have avoided with reasonable efforts or expenditures?

\$ \_\_\_\_\_

The Foreperson must sign and date below and return this Special Verdict to the Court Clerk.

Dated: \_\_\_\_\_

FOREPERSON

1 Dated: September 21, 2017

2 Respectfully submitted,

3 By: /s/ Neel Chatterjee  
4 Neel Chatterjee  
5 *nchatterjee@goodwinlaw.com*  
6 Brett Schuman  
7 *bschuman@goodwinlaw.com*  
8 Shane Brun  
9 *sbrun@goodwinlaw.com*  
10 Rachel M. Walsh  
11 *rwalsh@goodwinlaw.com*  
12 Hong-An Vu  
13 *hvu@goodwinlaw.com*  
14 Hayes P. Hyde  
15 *hhyde@goodwinlaw.com*  
16 James Lin  
17 *jlin@goodwinlaw.com*  
18 **GOODWIN PROCTER LLP**

19 *Attorneys for Defendant: Otto Trucking LLC*